

STATE OF DELAWARE  
DEPARTMENT OF FINANCE  
DIVISION OF REVENUE  
601 DELAWARE AVENUE  
WILMINGTON, DELAWARE 19899

TAX NEWSGRAM 72-42

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PERSONAL INCOME TAX

- Capital Gains and Losses - Partial year residents.

The question has been raised as to the proper treatment of capital gains and/or losses incurred by a taxpayer either prior to moving into Delaware or after moving from Delaware.

Assume that a taxpayer moved into and became a resident of Delaware on July 1 of any year. Prior to becoming a resident of Delaware he sold securities which resulted in a long-term capital gain. After he moved into Delaware he sold additional securities which resulted in a long-term capital loss.

On the Federal return Form 1040 D the losses offset the gains and the net amount would be treated as either a long-term gain or loss. On the Delaware return he would eliminate the long-term capital gain and be allowed the long-term capital loss on the basis that the loss was his only transaction in Delaware. The maximum allowable loss would be \$1,000 computed in the same manner as if this was the only transaction with carry-over if in excess of the allowable amount.

EXAMPLE:

Federal Return

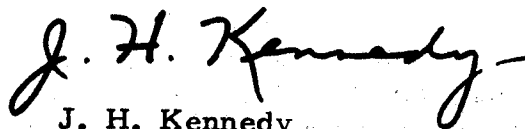
Long-term capital gains while a resident of another state	\$6,000
Long-term capital loss while a resident of Delaware	<u>(3,000)</u>
Net long-term capital gain reported on Federal return	\$3,000
Allowable deduction 50%	<u>1,500</u>
Reported on Federal return	\$1,500

Adjustment on State Return

Eliminate net gain reported on Federal return	\$1,500
Add allowable loss as resident of Delaware - Maximum	<u>1,000</u>
Total adjustment	\$2,500

In addition the resident would be allowed a long-term capital loss of \$1,000 to be carried over to the subsequent year and applied at 50%.

The Federal law requires that if the taxpayer has a net long-term capital loss the deductible amount on the return is limited to 50%. Therefore, \$2,000 of the capital loss would be required in order to claim the \$1,000 limit on the return.



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jvm

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